

**Charter Township of Elmwood  
Zoning Board of Appeals  
Regular Meeting  
April 6, 2022  
7:00 PM**

**A. CALL TO ORDER:** Jeff Aprill called the meeting to order at 7:00 p.m.

**B. ROLL CALL:** Ray Haring, Jeff Aprill, Jim O'Rourke, Jason Razavi  
Excused: Gary Bergstrom

Jeff Aprill noted only 4 members were present, so Megan Mertaugh-Graber had the option to wait until a future date to proceed with 5 members.

Megan chose to proceed that evening.

**C. PUBLIC COMMENT:** None

**D. AGENDA MODIFICATIONS: MOTION BY JIM O'ROURKE, SECONDED BY RAY HARING TO APPROVE THE AGENDA AS PRINTED. MOTION APPROVED 4-0.**

**E. DECLARATION OF CONFLICT OF INTEREST:** None

**F. APPROVAL OF MINUTES: MARCH 2, 2022: MOTION BY RAY HARING, SECONDED BY JIM O'ROURKE TO APPROVE MINUTES OF MARCH 2, 2022 AS PRESENTED. MOTION PASSED 4-0.**

**G. NEW BUSINESS:**

**1. Case #2022-01 Request by Megan Mertaugh-Graber and Kermit Graber for an interpretation of Section 5.4 of the Zoning Ordinance, specifically regarding whether "Livestock and poultry on 4 or more acres in a fenced enclosure" as allowed by the Township's Ordinance may be split amongst separate adjoining parcels in regards to the minimum acreage requirement.**

Jeff Aprill opened the public hearing at 7:04 p.m. and reminded Megan Mertaugh she would need 3 out of 4 votes for approval, or she could wait until the next meeting when 5 members would be present. She relayed she wanted to proceed.

Staff noted this was an interpretation of section 5.4 in the Zoning Ordinance. She reminded the Board it was a text interpretation, it's pretty narrow, they're just focused on the case at hand. In their packet they had the application submitted and the opinion from the Township Attorney. She understands the application did include some back and forth with a previous Zoning Administrator's decision and her (Staff's) decision which she respectfully stated when an opinion was originally sought from the ZA, it just referenced that the property contained 4.2 acres. If a parcel contains over four acres, livestock and poultry is an allowed use, but it came to her attention after a couple of calls and an email about livestock in an R1 area that she became aware that the 4.2 acres was actually spread across 2 parcels. She reiterated to focus on what the Ordinance says.

Megan Mertaugh stated there has been history with the two Zoning Administrator's she's been working with. She then detailed a variety of emails between her and the Zoning Administrators which was included in her application. On 4/6/21 she emailed Sara Kopriva seeking information on if livestock was allowed on her property, which was 4.19 acres. She then continued to detail additional communication with Kopriva. Mertaugh later relayed in August she received an email from Sarah Clarren revisiting the conversation and the approval she had received and that's when her interpretation was different from the previous Zoning Administrator.

Her request is with hopes that they don't have to combine both parcels but they can keep them separate so they can build the mother-in-law lodging. She relayed that she's open to pursuing a restrictive covenant; she knows that Clarren's interpretation and the predominant fear that was communicated with Mertaugh was that if the acreage is split across two parcels, if one were to be sold, then they would no longer be in compliance with the 4 acres. She has no problem signing a restrictive covenant saying if they sell the parcel, the llamas go. Her intention is to be here so if that's a possibility to keep the parcels separate so they can have more of their lifelong vision of being able to house their family as they age in regards to their extended family. Clarren relayed that a restrictive agreement, if possible, would not be determined at the ZBA level and would involve conversations/guidance from Counsel; she added that was under the impression that the Mertaugh's were not seeking that option per an earlier discussion regarding how escrow would be required.

Jeff Aprill asked Staff if there was any written opposition or support of the plan. Staff responded she received a statement from the Jones' on a clerical error on the parcel numbers, but that was all.

Jeff Aprill asked for public comment. None was given.

Staff restated that this was not an appeal of an administrative decision, the only thing the ZBA can make a decision on is what was filed which was an interpretation of whether or not the minimum acreage requirement can be split amongst two lots.

The Board discussed the request and reviewed the Memo prepared by the Township Attorney.

The public hearing closed at 7:40.

**MOTION BY RAY HARING, SECONDED BY JASON RAZAVI FIND THAT THE INTERPRETATION OF THE ORDINANCE, SECTION 5.4 CURRENTLY REQUIRES 4 ACRES OR MORE ON 1 PARCEL IN REGARDS TO LIVESTOCK AND POULTRY. MOTION PASSED UNANIMOUSLY.**

**2. ELECTION OF OFFICERS: MOTION BY JIM O'ROURKE, SECONDED BY JASON RAZAVI TO POSTPONE ELECTION OF OFFICERS UNTIL THE MAY MEETING. MOTION APPROVED 4-0.**

**H. OLD BUSINESS:** None

**I. COMMENTS FROM THE CHAIR:** Jeff thanked everyone for being there.

**J. COMMENTS FROM ZBA MEMBERS:** Jason Razavi said they all feel bad about Megan's situation, but they have to follow the Ordinance.

**K. ANNOUNCEMENTS:** Sarah Clarren announced there is a meeting May 4<sup>th</sup>.

**L. PUBLIC COMMENT:** None

**M. ADJOURN: MOTION BY RAY HARING, SECONDED BY JASON RAZAVI TO ADJOURN MEETING AT 8:50PM. MOTION PASSED.**